

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

CHARLES ST. GEORGE KIRKLAND,
Defendant.

NO. CR23-005 JHC
INFORMATION

The United States Attorney charges that:

SUMMARY

1. This case arises out of CHARLES ST. GEORGE KIRKLAND's promotion of a fraudulent tax refund scheme. KIRKLAND filed documents with the Internal Revenue Service falsely representing that his companies had incurred more than \$135 million in losses from investments in solar equipment. KIRKLAND then purported to transfer the tax benefits of his companies' non-existent losses to thousands of taxpayers, who then claimed that these losses entitled them to tax refunds. The taxpayers received over \$60 million in tax refunds from the United States Treasury and paid KIRKLAND and companies associated with KIRKLAND more than \$45 million.

RELEVANT TAX LAWS

2. KIRKLAND's scheme involved the fraudulent use of claimed net operating losses (NOLs). A business entity incurs an NOL when its allowable deductions exceed its gross income. NOLs can be carried forward and used to offset (reduce) income, and therefore to reduce tax obligations in years subsequent to the year the NOL was incurred. For example, if a taxpayer incurs a net operating loss of \$50,000 in Year 1 but earns income of \$100,000 in Year 2, the taxpayer can, under appropriate circumstances, use the Year 1 NOL to reduce its Year 2 taxable income to \$50,000.

3. NOLs generated by a partnership or limited liability corporation can sometimes be passed through to their partners or members. The partners or members may then use their share of the NOL to offset income received from other sources, such as employment income. Under the Internal Revenue Code and applicable regulations, an NOL passes through to a partner or member only if he or she was a partner or member of the business entity when the entity incurred the NOL; was an active participant in the entity's business activity; and contributed capital to the entity in at least the amount of the claimed NOL before the last day of the member or partner's taxable year.

4. The federal solar tax credit, which is part of the investment tax credit ("ITC"), allows a taxpayer to take a tax credit of 30% of the cost of installing a solar energy system. The ITC applies only if the property has been placed in service in a trade or business. An ITC of a business entity may flow through to partners or members of the entity provided that the person is a partner or member of the entity during that person's taxable year; is an active participant in the entity's business activity; and has an amount at risk with the entity of at least the amount of that person's allocable share of the basis in the energy property that qualifies for the ITC.

5. For a taxpayer to claim NOLs or ITCs from a partnership, the taxpayer must be issued an IRS Schedule K-1 (Partner's Share of Income, Deduction, Credits) by

the entity that generated the NOL or ITC. The taxpayer attaches the Schedule K-1 to the taxpayer's tax return as evidence of the claimed NOL or credit.

THE KIRKLAND BUSINESS ENTITIES

6. KIRKLAND is the owner and operator of Clean Energy Systems, LLC (CES), an Arizona limited liability company that held itself out as engaging in the business of purchasing, installing, and leasing solar equipment. KIRKLAND was also the owner of Solar Farm LLC and Corona Energy LLC, which were also Arizona limited Liability Companies. CES, Solar Farm, and Corona Energy are referred to collectively as the "Kirkland LLCs" in this Plea Agreement. KIRKLAND approved all tax filings of the Kirkland Entities. Kirkland was also the manager of another Arizona limited liability company called Renewable Energy Projects Management ("REPM").

7. For the tax years 2012 through 2018, KIRKLAND caused CES to file IRS Forms 1065 (Returns of Partnership Income) falsely claiming that the company had incurred a total of \$134,479,557 in depreciation based on its expenditures on equipment, which resulted in NOLs of \$136,694,121 and ITCs of \$182,556,754. In fact, over this entire period, the company spent less than \$6 million on solar equipment. Therefore, as Kirkland knew, the majority of the NOLs and ITCs claimed by CES were unsupported. The following table sets out the amount of depreciation CES claimed on its tax return for each year, and the amount of costs actually incurred by CES:

Year	Depreciation Claimed	NOL Claimed	ITC Claimed	Actual Costs
2012	9,647,775	9,120,676	13,056,671	186,004
2013	41,479,282	41,556,372	16,108,883	150,216
2014	29,736,361	28,942,310	18,137,366	523,950
2015	22,194,002	25,696,554	35,722,402	1,159,237
2016	13,840,271	13,796,343	36,001,613	553,097
2017	11,200,135	11,200,135	5,903,114	2,890,089

Year	Depreciation Claimed	NOL Claimed	ITC Claimed	Actual Costs
2018	6,381,731	6,381,731	57,626,705	310,000

8. Kirkland caused CES to issue Schedules K-1 reporting that significant portions of CES's NOLs and ITCs passed through to the other Kirkland LLCs. For example, on its 2014 tax return, CES reported that \$15,005,363 in NOL and \$11,805,221 in ITCs passed through to Solar Farm. In its 2015 tax return, CES reported that \$16,246,687 in NOL and \$19,835,114 in ITCs flowed through to Solar Farm. In its 2016 tax return, CES reported that \$5,721,476 in NOL and \$1,123,106 in ITCs flowed through to Corona Energy.

9. Kirkland served as manager of REPM, which was formed by an associate of Kirkland ("Person 1") in 2018. Also in 2018, REPM filed a Form 1065 tax return for the tax year 2017 claiming \$70,057,764 in depreciation. In fact, since REPM was not even formed until 2018, it had no depreciation in 2017.

KIRKLAND'S TAX AVOIDANCE PROGRAM

10. Between 2012 and 2019, Kirkland promoted a program under which he represented that taxpayers could obtain tax benefits by becoming members of one or more of the Kirkland LLCs. Kirkland generally promoted this program to professional tax preparers, who then offered participation in the program to their clients.

11. Kirkland represented to tax preparers and potential participants that his businesses had accumulated tens of millions or hundreds of millions of dollars in NOLs and ITCs.

12. Under Kirkland's program, Kirkland agreed that he would cause one or more of the Kirkland LLCs to issue Schedules K-1 to taxpayers representing that the taxpayer was a member of the Kirkland LLC and was entitled to an NOL or ITC that had been passed through to the taxpayer for a prior year. The taxpayer would then amend his or her tax return for the applicable year to claim a refund based on the reduction in tax

liability resulting from the NOL or ITC. The taxpayer agreed that when he or she received the refund, he or she would pay 90% of the refund to Kirkland or a Kirkland LLC.

13. As Kirkland knew, the participants were not entitled to the tax benefits or refunds promised under his program for several reasons. First, the Kirkland LLCs had not actually generated the NOLs or ITCs in the amounts claimed on the Schedules K-1 because those entities had not made expenditures supporting the claimed depreciation or credit. Second, the taxpayers were not partners in the Kirkland LLCs during the periods when the claimed NOLs or ITCs were purportedly incurred but were instead simply issued Schedules K-1 following that period. Third, the taxpayers were not active participants in the Kirkland LLCs because they had no participation in the businesses other than receiving the Schedules K-1 and claiming the resulting tax benefits.

14. For the tax years 2011 through 2019, Kirkland issued or caused to be issued Schedules K-1 that falsely represented that the taxpayer had incurred an NOL or ITC as a result of the taxpayer's participation in a Kirkland LLC. The taxpayers then filed these Schedules K-1 with their amended tax returns. A total of 3,196 tax returns were filed using these Schedules K-1. The IRS paid \$60,726,083 in refunds to these taxpayers over this period. The taxpayers paid Kirkland or the Kirkland LLCs a total of \$46,453,936.

Counts 1-3

(Aiding or Assisting the Submission of False Tax Documents)

15. Paragraphs 1-14 of this Information are hereby incorporated by reference.

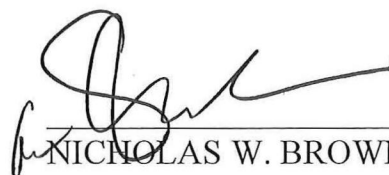
16. On or about the dates hereinafter set forth below, in King County, within the Western District of Washington, CHARLES ST. GEORGE KIRKLAND did willfully aid and assist in, and procure, counsel, and advise, the preparation and presentation to the Internal Revenue Service of U.S. Individual Income Tax Returns, Forms 1040 or 1040-X, for the taxpayers and calendar years hereinafter specified. The returns were false and

fraudulent as to material matters, in that they represented that the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and credits for items and in amounts hereinafter specified, when, as the defendant then and there knew, the taxpayers were not entitled to claim the deductions and credits in the claimed amounts. The following three counts are examples of the 3,196 fraudulent tax returns that KIRKLAND caused to be filed:

Count	Date	Document	Taxpayers	Claimed Tax Benefit
1	January 11, 2017	2015 Form 1040-X	M.C and R.C of Maple Valley, Washington	\$347,893 NOL
2	March 3, 2018	2017 Form 1040	A.H. and T.H of Seattle, Washington	\$22,870 NOL
3	April 17, 2019	Form 1040	L.N. of Grapeview, Washington	\$10,704 ITC

All in violation of Title 26, United States Code, Section 7206(2) and Title 18, United States Code, Section 2.

DATED: January 12, 2023.


NICHOLAS W. BROWN
United States Attorney


ANDREW C. FRIEDMAN
Assistant United States Attorney


SETH WILKINSON
Assistant United States Attorney